Chapter 49.65

SPECIFIED USE PROVISIONS*

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*__Administrative Code of Regulations cross reference--__ Performance standards, Part IV, § 04 CBJAC 050.010 et seq.

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ARTICLE I.

EXPLORATION AND MINING

49.65.110 Purpose.

(a) It is the purpose of this article to foster the development of a safe, healthy and environmentally sound mining industry while protecting the overall interests of public health, safety and the general welfare and minimizing the environmental and surface effects of mining projects for which an exploration notice or mining permit is required. This article establishes the review and permit procedures necessary to conduct exploration, to gain approval to open a mine, to conduct mining operations, and to provide for final reclamation and financial warranty release at the conclusion of exploration and mining operations and reclamation of affected surface. This article does not include regulation of surface or subsurface water, geothermal resources, sand or gravel, common varieties of construction aggregate, or natural oil, gas, coal and peat or associated byproducts recovered therewith, except to the extent that such substances are developed or extracted as a mining by product in a mining operation of a large or small mine.

(b) The intent of this article is to regulate areas of local concern, reserving to the City and Borough all regulatory powers not preempted by state or federal law. The department may require a permit to be obtained or a notice given for federally approved activities on federal lands, including unpatented mining claims, so long as the purpose of the review process is not to deny use or expressly prohibit mining, but rather the purpose of the review is to impose conditions for the protection of the environment, health safety and general welfare of the City and Borough.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 3, 1989)

49.65.115 General applicability.

(a) There is adopted for the purpose of defining the mining and exploration surface activities exclusion district in the City and Borough, the Mining and Exploration Surface Activities Exclusion District Maps A--F, dated June 5, 2006, as the same may be amended from time to time by the assembly by ordinance. These maps, as adopted or as amended, identify the area of the City and Borough within which surface disturbance or subsidence in support of exploration and mining activities is prohibited. Except as provided herein, mining and related activities may be conducted elsewhere within the City and Borough subject to the provisions of this article.

(b) This article does not regulate subsurface mining within or without the district except that subsidence within the district is prohibited. It is not the intent of this article to unreasonably limit or nullify private property rights.

(c) There is adopted for the purpose of regulating exploration and mining activities within the City and Borough the Urban/Rural Mining District Map, dated June 5, 2006, depicting the Urban and Rural Mining Districts, as such may be amended from time to time by the assembly by ordinance. Mines located in the Rural Mining District which will undergo environmental review by state agencies, federal agencies, or both, as determined by the director, shall not be subject to Chapter 49.65, and shall be permitted as allowable uses pursuant to CBJ 49.15.320. With respect to mines in the rural mining district, the planning commission may impose conditions pursuant to CBJ 49.15.320(f)(1)--(8) and additional conditions relating to traffic, lighting, safety, noise, dust, visual screening, surface subsidence, avalanches, landslides, and erosion.
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 4, 1989; Serial No. 2003-27am, § 2, 6-16-2003; Serial No. 2006-15, § 16, 6-5-2006)

49.65.120 Exploration notices, financial warranties and procedures, release of financial warranties for exploration notices.

(a) In order to ensure that exploration is conducted in accordance with the environmental, health, safety and general welfare concerns of the City and Borough, any operator intending to conduct or continue exploration operations other than pursuant to a previously filed exploration plan shall file with the department a notice of its intent to conduct exploration activities. Such notice shall identify, on a map on a scale of 1:63,360 or a more detailed scale, the area of and schedule for the exploration activities. The notice shall also describe the operator's plan for reclamation of the areas disturbed by its exploration activities and shall contain information as to the methodology and cost of such reclamation sufficient to enable the department to determine an appropriate financial warranty. The operator shall include a processing fee, as specified in section 49.85.100, with the exploration notice. The notice shall also contain copies of any prospecting permits, notice of intent to conduct exploration, or operating plans filed with any federal or state agency with all modifications, revisions and amendments thereto. The department may require and set the amount of a financial warranty in accordance with section 49.65.140 and shall so advise the operator within 20 days after receiving the operator's notice of intent. When the operator has submitted a financial warranty in the amount set by the department and in a form satisfactory to the city attorney, the authority to operate under the exploration notice shall become effective. In conducting exploration operations, the operator shall comply with all applicable federal, state and City and Borough laws, rules and regulations, and such compliance shall be a condition of the effectiveness of the

authority to operate under an exploration notice.

(b) Upon completion of exploration activities, and all necessary reclamation, the operator shall notify the department that exploration and reclamation are complete and shall submit a map on a scale of 1:63,360 or a more detailed scale, showing the location of the exploration and reclamation activities. The department shall determine whether an inspection of the lands explored is necessary to determine whether reclamation has been completed in accordance with the standards of section 49.65.135 and, if so, shall inspect the lands explored and reclaimed within 60 days of such notification or as soon thereafter as weather conditions permit. In determining whether an inspection is necessary, the department shall consider whether there has been a state or federal inspection and whether that inspection fulfills the requirements of this section and section 49.65.135. If the department finds that the reclamation satisfies the standards of subsection 49.65.135(b), the financial warranty shall be promptly released. If the department finds that the standards have not been satisfied, it shall notify the operator within 30 days of the inspection, or the review of other agency records, of the additional steps necessary to achieve compliance with subsection 49.65.135(b). The department shall give the operator a reasonable time to complete reclamation and request another inspection, in which case the inspection, or review of other agency records, shall be repeated. If the department, after such reinspection or review, is not satisfied that the standards of subsection 49.65.135(b) have been complied with, it may declare so much of the financial warranty as necessary forfeited and, after notice thereof and an opportunity for the operator to appeal pursuant to section 49.65.165, apply the financial warranty to complete reclamation.

(c) The requirement of a financial warranty may be waived if the department determines that a financial warranty is not necessary to ensure compliance with the requirement of this article. The waiver shall be in writing and shall set for the reasons for the waiver.
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 5, 1989)

49.65.125 Small mine permits, financial warranties and procedures.

(a) Except as provided in CBJ 49.65.115(c), no new small mine shall commence mining operations after August 6, 1986, unless the operator shall have obtained a small mine permit pursuant to Chapter 49.15, Article III, as modified by this article. No small mine which is in operation on August 6, 1986, may remain in operation more than one year thereafter, unless the operator has submitted a permit application and the permit has not been denied.

(b) A small mine application shall include information establishing the right to use the affected surface, a map showing the location of the small mine and the affected surface for that small mine on a scale of 1:63,360 or a more detailed scale, and a description and timetable of the mining operation, including the mining plan, the plan for reclamation and the potential environmental, health, safety and general welfare impacts of the operation. The application shall also require a description of the measures to be taken to mitigate the adverse effects of such impacts, to mitigate adverse effects of mining operations on neighboring land, and to comply with sections 49.15.330 and 49.65.135. The map and description must indicate that there will be no affected surface within the boundary of the mining and exploration surface activities exclusion district and the narrative material must demonstrate that there will be no significant subsidence within the mining and exploration surface activities exclusion district. The application shall also include a listing of all permits applied for or granted by other agencies as well as amendments to those other applications as they are filed. To the extent that the information required by this subsection is provided in applications to other agencies, the operator may respond on its application form by cross reference to the relevant portions of those applications. Subject to the

procedures of subsections (c) and (d) of this section, the requirement to provide information is continuing, and supplemental information regarding any changes in the information reasonably requested must be provided to the department throughout the duration of the application process.

(c) Upon receipt of an application and a processing fee pursuant to section 49.85.100, the department shall review the application, and within 35 days make a recommendation as to whether the proposed mining operation will mitigate adverse environmental, health, safety and general welfare impacts. This review shall include, but not be limited to, the following determinations: whether air and water quality standards will be maintained in accordance with federal, state, and city borough laws, rules and regulations; whether sewage, solid waste, hazardous and toxic materials will be properly contained and disposed of in accordance with federal, state and City and Borough laws, rules and regulations; whether the mining operation will be conducted in such a way as to minimize safety hazards to the extent reasonably practicable and to mitigate adverse impacts on the public and on neighboring properties such as those from traffic, noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides and erosion; and whether appropriate historic sites designated by the City and Borough as significant will be protected. If the department makes a favorable recommendation, it will also make a recommendation on the amount of the financial warranty as provided in section 49.65.140. The department's recommendations shall be forwarded to the commission for inclusion on the agenda for the next regularly scheduled meeting after notice has been published as provided in section 49.15.230. The application shall then be heard as a conditional use application as provided in chapter 49.15, article III, as modified by this article. If the commission determines that the application, with stipulations or conditions as appropriate, satisfies the standards of sections 49.65.135 and 49.15.330, it shall approve the application and set the amount of financial warranty pursuant to section 49.65.140. When the operator has submitted a financial warranty in the amount set by the commission and in a form satisfactory to the city attorney, the permit shall be promptly issued by the department.

(d) If the department determines that the proposed mining operations does not meet the standards of sections 49.65.135 and 49.15.330, it shall so advise the operator, stating the reasons therefor. The operator may then either allow the department's recommendation to be forwarded to the commission pursuant to subsection (c) of this section, or revise its plans, if appropriate, and resubmit the application for processing in accordance with subsection (c) of this section. If the application is resubmitted within 180 days of the initial submission, no new application fee will be required.
(Serial No. 87-49, § 2, 1987; Serial No. 89-27, § 2, 1989; Serial No. 89-47am, § 6, 1989; Serial No. 2003-27am, § 3, 6-16-2003)

49.65.130 Large mines, financial warranties and procedures.

(a) Except as provided in CBJ 49.65.115(c), no large mine shall commence mining operations after August 6, 1986, unless the operator has obtained a large mine permit pursuant to Chapter 49.15, Article III, as modified by this article.

(b) The application shall be submitted in the form of a report containing sufficient information so that the department can, after reviewing the application, evaluate, in accordance with the standards of subsection 49.65.135(a), the impacts described in this subsection that the mining operation may have on the City and Borough. The application shall contain a map on a scale of 1:63,360, or a more detailed scale, a description of the mine site and affected surface; description and timetable of the proposed mining operation, including all roads, buildings, processing and related facilities; a description and timetable of proposed

reclamation of affected surface; a description of proposals for the sealing of open shafts, adits and tunnels upon the completion or temporary cessation of mining operations; a description of methods to be used to control, treat, transport and dispose of hazardous substances, sewage and solid waste; and a description of other potential environmental, health, safety and general welfare impacts, as well as neighboring property impacts and measures to be taken to mitigate their adverse effects. The application shall also contain additional information normally prepared by the operator for its feasibility studies and mining plans, including information establishing the right to use the affected surface, labor force characteristics and timing, payroll projections, anticipated duration of the mining operation, construction schedules, infrastructure description, and other information reasonably requested by the department in the preapplication conference held pursuant to subsection 49.15.330(b). The map and description must indicate that there will be no affected surface within the boundary of the mining and exploration surface activities exclusion district and the narrative material must demonstrate that there will be no significant subsidence within the mining and exploration surface activities exclusion district. The application shall include a copy of each application submitted to other agencies and a report on the current status of all such applications, as well as amendments to those other applications as they are filed. To the extent that the information required by this subsection is provided in applications to other agencies, the operator may respond on its application form by cross reference to the relevant portions of those applications. Subject to the procedures of subsections (f) and (h) of this section, the requirement to provide information is continuing, and supplemental information regarding any changes in the information reasonably requested must be provided to the department throughout the duration of the application process.

(c) (1) The department, in consultation with the operator, shall determine the scope and budget of a socioeconomic impact assessment. The socioeconomic impact assessment shall be prepared by the department, or both. All reasonable costs and expenses required to prepare the assessment shall be paid to the department by the operator prior to the initiation of the assessment. For the purposes of this article, the term "socioeconomic impact assessment" shall be and mean a report or study that shall address the beneficial and adverse impacts, including direct impacts and indirect impacts, of the mining operation on existing and future local conditions, facilities and services, including transportation and traffic; sewer and water; solid waste; public safety and fire protection; education, native history and culture; health; recreation; housing; employment; local businesses; the rate, distribution and demographic characteristics of any population changes induced by the mining operation; and the fiscal impacts of the mining operation on public facilities and services, including general government functions. The socioeconomic impacts to be studied must be reasonably foreseeable and demonstrable. Highly speculative impacts need not be studied. The purpose of this impact assessment shall be to provide information to the department concerning possible beneficial and adverse mining operation impact on the City and Borough, in order to allow the department to determine the extent of these impacts and how these impacts can be mitigated. The impact assessment shall be completed before the time that the department must make a recommendation on the application. Review of those portions of the application that would not be affected by information to be included in the assessment shall not be delayed while the impact assessment is being prepared for review.

(2) The department shall waive the requirement that any operator submit particular information required by this subsection or that the impact assessment required by this subsection address certain impacts when the department determines that: such information is not essential to evaluate what impact the mining operation will have on the City and Borough; or such information has been previously provided; or such information is adequately presented in another report previously submitted to the department or another agency. The waiver shall be in writing

and shall set forth the reasons for the waiver.

(d) The department shall conduct a preliminary review of the application within 20 days of its submission and schedule promptly thereafter a meeting with the operator to request such additional information as may be necessary to make the application complete. At this meeting, the department and the operator shall establish the procedures for coordinating the review of the application with the review by other agencies of the applications submitted to them by the operator.

(e) The fee for processing the application shall be as specified in section 49.85.100. This fee is intended to cover the City and Borough's costs of review of the application. If, after receipt of the application, the department determines that the cost of review is likely to substantially exceed such fee the department may, after consultation and discussion with operator, recommend an additional fee to the assembly. Such additional fee shall be approved by the assembly by motion and shall be set in an amount that will, as far as can be determined, cover the cost of renew of the application, including reasonable administrative and overhead expenses. In recommending the additional fee, the department may consider, among other factors: that proper review will require the department to retain outside professional assistance either to review the application or to perform original study and research; that significant staff effort will be required by the department to adequately review the application; the involvement in the review process of other governmental agencies, either through a federal environmental review process or other procedure; the necessity for extraordinary travel and transportation costs that may be incurred by the department during review; the potential benefit of information generated by the application review to other mining operations or to the City and Borough; and the necessity for extraordinary communication, duplication or publication costs arising from the review.

(f) Unless the operator agrees to an extension, within 90 days after the department has received all additional information requested at the initial meeting described in subsection (d) of this section and the fee has been established, the department shall complete its review of the application, unless an Environmental Impact Statement (EIS) is required by the National Environmental Policy Act (NEPA). If an EIS is required, then the timing of the review of the application shall be in accordance with the provisions of subsection (h) of this section. The application review shall include the following determinations: whether air and water quality will be maintained in accordance with federal, state and City and Borough laws, rules and regulations; where sewage, solid waste, hazardous and toxic material will be properly contained and disposed of in accordance with federal, state and City and Borough laws, rules and regulations; the extent to which the operator will agree to mitigate adverse impacts on the City and Borough; whether the mining operation will be conducted in such a way as to minimize safety hazards to the extent reasonably practicable and will mitigate adverse impacts on the public and on neighboring properties such as those from traffic overloading, noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides and erosion; and whether appropriate historic sites will be protected. The department shall form a recommendation as to whether the permit should be approved and, if so, it shall make a recommendation on the amount of the financial warranty as provided in section 49.65.140. The department's recommendation may include such conditions or stipulations as the department deems to be reasonably necessary to mitigate any adverse environmental, health, safety or general welfare impacts which may result from the proposed mining operation. The department's recommendations shall be provided to the operator and forwarded to the commission where the matter shall be placed on agenda for the next regularly scheduled meeting after notice has been published as provided in section 49.15.230. The application shall then be heard as a conditional use application as provided in chapter 49.15, article III, as modified by this article. If the commission determines that the application, with stipulations or conditions as appropriate, satisfies the standards of sections 49.65.135 and 49.15.330, it shall approve the application and set the amount of the

financial warranty.

(g) If the department determines that the proposed mining operation does not meet the standards of sections 49.65.135 and 49.15.330, it shall so advise the operator, together with the reasons therefor. The operator may then either withdraw its application or allow the department's recommendation to be forwarded to the commission pursuant to subsection (f) of this section. If the application is withdrawn, it may be revised and submitted within 180 days upon payment of an additional processing fee as determined by the department to be reasonably necessary to defray its cost of reviewing the revised application to the extent that it is different from the original submittal. Revised applications shall be processed in accordance with the procedures set forth in subsections (d), (e), (f) and (h) of this section.

(h) In order to prevent duplication of studies and to avoid premature decision-making, if an EIS is required to be completed on the mining operation pursuant to NEPA, then the application will not be considered to be complete until the draft environment impact statement (DEIS) is concluded. The department will begin its review of the application upon its filing. The operator shall advise the department immediately at any time during the application process or thereafter if NEPA is involved so that the City and Borough may participate in the NEPA process. The DEIS, the final environment impact statement and all comments and testimony related thereto will be considered as part of the application. The department may, before the final environment impact statement is complete, prepare its recommendation as to whether the permit should be approved. If the department prepares its recommendation before the final environment impact statement is complete, the recommendation shall not be presented to the commission until the department has considered the final environment impact statement in its recommendation. The department's recommendation shall not be presented to the commission until publication of the final environment impact statement. The department's recommendation may include such conditions or stipulations as the department deems to be reasonably necessary to mitigate any adverse environmental, health, safety or general welfare impacts which may result from the proposed mining operation. The department shall also recommend the amount of the financial warranty as provided in section 49.65.140. The department's recommendation shall be provided to the operator and forwarded to the commission where the matter shall be placed on the agenda for the next regularly scheduled meeting after the final environment impact statement is complete and a notice has been published as provided in section 49.15.230. The application shall then be heard as a conditional use application as provided in chapter 49.15, article III, as modified by this article. If the commission determines that the application, with stipulations or conditions as appropriate, satisfies the standards of sections 49.65.135 and 49.15.330, it shall approve the application and set the amount of the financial warranty.

(i) After a permit has been approved by the commission, a financial warranty in the amount set by the commission has been submitted in a form satisfactory to the city attorney, and the operator has agreed to such conditions as are deemed appropriate by the commission, the department shall promptly issue a permit. (Serial No. 87-49, § 2, 1987; Serial No. 89-27, § 3, 1989; Serial No. 89-47am, § 7, 1989; Serial No. 2003-27am, § 4, 6-16-2003)

49.65.135 Standards for issuance of permits and conduct of operations.

(a) In determining whether to recommend issuance of a permit, the department shall require that:

(1) The mining operations be conducted in accordance with this article, section 49.15.330, and any other applicable provisions of the City and Borough Code in such a way as to mitigate adverse

environmental, health, safety and general welfare impacts;

(2) Air and water quality be maintained in accordance with federal, state and City and Borough laws, rules and regulations;

(3) Hazardous and toxic materials, sewage, and solid waste be properly contained and disposed of in accordance with applicable federal, state and City and Borough laws, rules and regulations;

(4) The operator conduct all mining operations according to the standards of the City and Borough as contained in this article, section 49.15.330, the permit and any other applicable provisions of the City and Borough Code, so as to minimize to the extent reasonably practicable safety hazards and to control and mitigate adverse impacts on the public and neighboring properties, such as from traffic overloading, noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides and erosion;

(5) Appropriate historic sites designated as significant by the City and Borough be protected;

(6) Reclamation of the affected surface be in accordance with the approved reclamation plan of the operator; and

(7) With respect to a large mine permit application, the operator negotiate and enter into a mitigation agreement with the City and Borough, which agreement shall establish responsibility for the mitigation of reasonably foreseeable and demonstrable adverse impacts, including direct impacts and indirect impacts. The operator shall be responsible for mitigating the direct impacts. The City and Borough shall be responsible for mitigating indirect impacts except where the costs of mitigating specific indirect impacts are found by the manager to:

(A) Exceed the amount of any City and Borough nonproprietary revenue increase attributable to the mining operation; and

(B) Require a direct and significant increase in local taxes or fees to adequately mitigate the impact.

Highly speculative impacts shall not be included in the mitigation agreement. Taxes and nonproprietary revenues generated as a result of the proposed mining operation shall be a factor considered in negotiating the mitigation agreement. This agreement shall be incorporated as part of the permit. This subsection does not limit or otherwise affect the authority of the department or the commission to condition or place stipulations on a permit pursuant to this article or the conditional use process as provided in chapter 49.15, article III.

(b) Reclamation of all affected surfaces shall be completed as soon as is reasonable after affected surface areas are no long being used in exploration and mining operations. Reclamation shall include the following:(1) Cleanup and disposal of dangerous, hazardous or toxic materials;(2) Regrading of steep slopes of unconsolidated material to create a stable slope;(3) Backfilling underground shafts and tunnels to the extent appropriate;(4) Adequate pillaring or other support to prevent subsidence or sloughing;(5) Plugging or sealing of abandoned shafts, tunnels, adits or other openings;(6) Adequate steps to control or avoid soil erosion or wind

erosion;(7) Control of water runoff;(8) Revegetation of tailings and affected surface areas with plant materials that are capable of self-regeneration without continued dependence of irrigation and equipment where appropriate;(9) Rehabilitation of fisheries and wildlife habitat; and(10) Any other conditions imposed by the commission.

Subsequent to the issuance of a permit or the grant of authority under an exploration notice, the operator's compliance shall be measured against the requirements contained in that permit or the conditions of the exploration notice and the operator's plans submitted with the permit application or the notice.

(c) In the event mining operations violate or threaten to violate this article, section 49.15.330, or a permit issued under this article, the operator shall notify the department of such fact and of the steps to be taken to return to compliance, or resolve the potential noncompliance.
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 8, 1989)

49.65.140 Financial warranty.

(a) No permit shall be issued or exploration authorized pursuant to this article, until any financial warranty required has been submitted by the operator, approved by the city attorney, and accepted by the department. The purpose of any financial warranty shall be to ensure that, during all phases of exploration or a mining operation, the operator will carry out all those obligations or requirements of the permit or conditions of an exploration notice, which are necessary to protect the environmental, health, safety, general welfare and reclamation requirements of the City and Borough, or that, if the operator does not carry out those obligations, there will be sufficient funds available to the City and Borough to enable it to complete the necessary work, taking into account the financial warranties which the operator must submit to other agencies. The department reserves the right to seek forfeiture of the financial warranty, in whole or in part, in the interest of protecting the environmental, health, safety and general welfare requirements of the City and Borough if it determines that the operator has violated the obligations or requirements of the permit or the conditions of an exploration notice. The forfeiture shall be limited to the extent necessary to satisfy the requirements or conditions that the operator has violated.

(b) The amount of financial warranty for an exploration notice shall be set by the department. The amount of financial warranty for small mines and large mines shall be determined by the commission. The amount of the financial assistance of the department and the engineering department, to be required to ensure the performance of the requirements of the permit or conditions of an exploration notice as set forth in subsection (a) of this section. In recommending and setting the amount of the financial warranty, the department and the commission, respectively, shall take into consideration the amount and scope of any financial warranties which have been submitted to other agencies. When the performance of such obligations is guaranteed by financial warranties that have been submitted to other agencies, the operator may be required to post a separate financial warranty with the City and Borough if the city attorney determines that the financial warranty submitted to another agency does not create a lien or interest sufficient to protect the interests of the City and Borough. Examples of obligations to be covered by the financial warranty required under this section include but are not limited to;

(1) Construction of berms, dikes, spillways, channels or other facilities to control, detain, retain or reduce runoff, soil erosion and siltation, or to divert water around waste, tailings, stockpiles or other facilities or disturbed areas;

(2) Installation and maintenance of landscaping, including berming, tree planting and other required grading or planting to provide visual and sound barriers and to eliminate or reduce the appearance of scarring;

(3) Installation and maintenance of road or highway improvements to mitigate the impact of increased traffic or heavy trucking which is measurable and directly attributable to the mining operation; such facilities may include speed access ramps or lanes, turn lanes, intersection improvements, traffic-control devices or private haulage ways where necessary to avoid the use of public roads or highways. The cost of installation or maintenance described in this subsection shall be shared by the operator and the City and Borough in relation to the proportion of the directly attributable and measurable impact on traffic of the operator's activities or the facilities being maintained, installed or improved;

(4) Reclamation of affected surfaces during and following exploration and mining operations;

(5) Regrading of steep slopes of unconsolidated materials to create a stable slope;

(6) Installation of facilities required to prevent or reduce degradation of air or water quality or to contain or control toxic or hazardous wastes;

(7) Removal of buildings, structures or equipment where appropriate;

(8) Such other obligations as necessary to conform with the commission's determinations under subsection 49.15.330(f) and (g) and subsection 49.65.135(a) and (b)

(c) The financial warranty required under this article for a large or small mine permit or an exploration notice may be in any one or a combination of the following forms at the option of the operator; provided, that the cumulative amount is equal to the amount provided in subsection (b) of this section:

(1) Cash;

(2) Certificate of deposit;

(3) An irrevocable standby letter of credit from a United States bank; or

(4) A surety bond from a bonding company licensed to do business in the state which is satisfactory to the department for credit worthiness. Interest on cash deposits or certificates of deposit will accrue to the credit of the operator.

(d) In addition to the forms of financial warranty set forth in subsection (c) of this section, with respect to a small mine permit or an exploration notice, the operator may elect to use a property bond as a form of financial warranty; provided, that at least ten percent of the total amount of the financial warrant shall be cash or a certificate of deposit; and provided further, that the commission determines that the value of the property is equivalent to the amount required to be generated for satisfaction of the obligation and the city attorney determines that the bond creates a lien with sufficient priority to permit its collection should such become

necessary.

(e) The form of financial warranty shall provide that the funds may be used by the City and Borough to satisfy the obligations described in subsections (a) and (b) of this section when there has been a determination by the department that the operator has not completed its obligations in a timely manner or has otherwise violated the terms of its permit or conditions of its exploration notice, and after notice and opportunity to perform the obligation has been given to the operator.

(f) The amount of the financial warranty shall be reviewed annually by the department, and a determination shall be made whether the amount should be increased or decreased, taking into account changes in the obligations of the operator to be undertaken during the ensuing year, cost of current obligations of final reclamation, and changes due to inflation of deflation.

(g) If the amount of financial warranty is to be increased or decreased by the determination made in subsection (f) of this section, then the actual increase or decrease shall be made according to the procedure in subsection (b) of this section.
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 9, 1989)

49.65.145 Term of notices and permits; temporary cessation.

(a) Exploration notices and permits for mining operations shall remain in effect for the duration of the operation, as stated in the notice or in the application, subject to the conditions of this section; and provided, that the following conditions are met:

(1) The financial warranty must remain in full force and effect;

(2) The operator must not be found to be in substantial violation of this article; and

(3) With respect to a large or small mine permit, mining operations must be continued in accordance with the plan contained in the application for at least 90 days in each year as to a large mine, and for at least 30 days in each year as to a small mine.

(b) During the term of any exploration notice or permit, the department may, pursuant to subsection 49.65.140(f), revise the amount of the financial warranty. If the amount of financial warrant is increased, the operator shall submit the appropriate amount of additional financial warranty within 60 days of the department's determination.

(c) The operator shall advise the department within ten days of the date upon which the operator receives notice that a financial warranty which has been submitted to any other agency is reduced or released.

(d) If at any time during the term of a permit, the operator determines that it will not conduct mining operations for the applicable time minimums established in subsection 49.65.145(a)(3), it shall notify the department of that intent and request that its mining operation be placed in an inactive status. In conjunction with this notification, and as a condition to granting a request for inactive status, the operator shall advise the department of the measures it will employ to prevent hazardous or dangerous conditions, erosion or other environmental damage which may result from the operator's activities, and the security measures it will employ

at the mining operation during the inactive period. An operator may continue in inactive status for a five-year period and may, with the permission of the department, obtain successive five-year extensions of that status. At the conclusion of inactive status, the operator shall either resume operations or commence final reclamation in accordance with its plans. If an operator ceases operations for more than one year but does not request inactive status, the department may require the operator to commence final reclamation in accordance with its plans.

(e) Throughout the duration of a large mine permit, the operator of a large mine shall also notify the department not less than 60 days prior to requesting placement on inactive status. The operator and the City and Borough shall maintain a process to exchange information regarding the impact on the City and Borough that may result from a change in mining operations. In addition, the operator shall provide the department with copies of any notification it may be required to provide to federal agencies under federal law concerning proposed personnel layoffs at its mining operation. The department may waive any of these notification requirements in the event of an unforeseen act of God or disaster.
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 10, 1989)

49.65.150 Annual reports; monitoring; monitoring fee.

(a) During the term of each exploration notice, the operator shall submit annual progress reports to the department on or before March 31 of each year and shall describe the areas in which exploration was conducted during the preceding year, the amount of acreage which was disturbed by such exploration, and the nature and extent of associated reclamation activities.

(b) During the term of each small mine permit or large mine permit, including any inactive period, the operator shall submit an annual progress report to the department on or before March 31 of each year describing the status of the mining operation in relation to the mining plan and timetable in the application, and describing reclamation activities during the year.

(c) The department shall have ongoing authority to monitor any mining operation for which a permit has been issued in order to ascertain whether the mining operation is in compliance with the requirements, terms, conditions and mitigation measures in the permit. The operator shall, upon reasonable notice, provide the department with access, at reasonable times, to the premises and to the records of the mining operation to the extent such access to the premises and records is necessary to ascertain whether the mining operation is in compliance with the requirements, terms, conditions and mitigation measures in the permit.

(d) Throughout the duration of the term of a small mine permit or a large mine permit, the operator shall pay to the department an annual monitoring fee to defray the costs of inspecting and reviewing the affected surface and compliance with the permit. The annual monitoring fee shall be such amount as may be established by the commission as necessary to cover the reasonable costs of inspection and review.
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 11, 1989)

49.65.155 Technical revisions, summary approval, and amendments.

(a) During the term of a permit, the operator shall notify the department of all technical revisions to its operations. As used in this section a "technical revision" is a change in operations which does not, in the judgment of the department, have more than a minor effect on reclamation and which does not change the total amount of disturbance or the overall environmental or socioeconomic impact of the mining operation. After the

technical revision is submitted to the department, the department shall within 30 days determine and notify the operator whether a permit amendment or summary approval of the change is necessary or whether the technical revisions may be accomplished under the operator's existing permit.

(b) If the operator or the department determines that the change to the mining operations will require preparation of a new or supplemental environmental impact statement, or will increase the acreage of affected surface or otherwise have a significant effect on reclamation or the environmental or socioeconomic impact of the mining operation, the permit shall be amended, unless summary approval of the change is granted pursuant to (b)(2) of this section.

(1) Except as provided in subsection (2) of this section, the operator shall file with the department an application for amendment to its original permit, together with an application with the same content as required for an original application, except that no operator will be required to resubmit any information which duplicates applicable previous submittals. The permit amendment application shall be processed in accordance with the same procedure as established for processing permits under sections 49.65.125, 49.65.130 and 49.65.135. The operator shall not commence changes requested in its amendment application until the permit amendment has been approved and, if appropriate, additional financial warranties submitted.

(2) Summary approval.

(A) Upon request of the applicant, the director may summarily approve a proposed change in mining operations not constituting a new land use or separate development upon a written determination that:

(i) the mine is located entirely outside the roaded service area established in CBJ 01.30.320;

(ii) the application is complete, providing all of the information necessary for the director to make the summary approval determinations set forth in subsections (i)--(iv);

(iii) the proposed change in mining operations will have no significant impact within the roaded service area on habitat, sound, screening, drainage, traffic, lighting, safety, dust, surface subsidence, avalanches, landslides, or erosion; and

(iv) the proposed change in mining operations has undergone or is undergoing environmental review and approval by one or more federal agencies, state agencies, or both.

(B) The director shall make the determination required by this subsection (2) within 45 days unless additional information is required. If the director requires additional information to make the determination, upon written notification to the applicant, the time for determination may be extended for up to 20 additional days after submittal by the applicant of the additional information. If an environmental impact statement is required by one or more federal agencies, completion of the draft environmental impact statement

is necessary for summary approval.

(C) Planning commission review.

(i) The director shall promptly forward the proposed summary approval to the planning commission after the determination is completed. The planning commission may ratify or reject the proposed summary approval.

(ii) If the commission rejects the proposed summary approval, it may:

(a) return the matter to the director for further consideration of whether the director, in consultation with the applicant, can address issues identified by the commission through imposition of conditions or changes in the proposed mining operation; or

(b) direct that the proposed change be processed by the department as an application for an allowable use permit for which the commission may impose conditions under CBJ 49.15.320(f)(1)--(8) and such additional conditions as are necessary to reduce to non-significant any impacts in the roaded service area on habitat, sound, screening, drainage, traffic, lighting, safety, dust, surface subsidence, avalanches, landslides, or erosion.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 12, 1989; Serial No. 2003-26(am), § 2, 6-9-2003)

49.65.160 Enforcement.

This article shall be enforced in accordance with chapter 49.10, article VI and section 49.65.185.
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 13, 1989)

49.65.165 Appeal.

Any person who is aggrieved by a decision of the department or the commission with respect to this article, other than one under section 49.65.160, may appeal that decision to the commission or the assembly, as applicable, as provided in chapter 49.20, article I.
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 14, 1989)

49.65.170 Release of warranties for mining operations.

(a) Upon completion of mining operations, the operator shall file a written notice of completion with the department when it believes it has completed any or all requirements of this article, section 49.15.330 and its permit with respect to any or all of its affect surfaces. The department shall, within 90 days after receiving the notice, or as soon thereafter as weather conditions permit, inspect the lands and reclamation described in the notice to determine whether the operator has complied with all applicable requirements.

(b) If the department determines that the operator has successfully complied with all the requirements of this article, section 49.15.330 and the permit, it shall release all financial warranties applicable to said requirements. Release shall be in writing and shall be delivered to the operator promptly after the date of

such filing.

(c) If the department finds that the operator has not complied with the requirements of this article, section 49.15.330 or the permit, it shall so advise the operator not more than 90 days after the date of the inspection. The operator shall be given a reasonable time to comply with requirements before a second inspection. If the operator does not complete the requirements, or if after reinspection the department is not satisfied that the operator has complied with all the requirements of this article, section 49.15.330 or the permit, the financial warranty shall be subject to forfeiture to the extent necessary to satisfy any outstanding requirements.
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 15, 1989)

49.65.175 Successor operators.

Any operator desiring to transfer its rights under an exploration notice, a small mine permit, or a large mine permit shall submit to the department a request for transfer. This request shall identify the name and address of the new operator. The department may approve in writing the request for transfer if it finds that: the proposed operator will conduct the operations covered by the notice or permit in accordance with the requirements of this article and any additional requirements set by the department; the proposed operator has submitted a financial warranty at least equivalent to the financial warranty of the original operator such other amount as may be determined using the procedures in section 49.65.140; the proposed operator will continue to conduct the operations involved in full compliance with the terms and conditions of the original notice or permit; and all obligations and responsibilities undertaken by the original operator shall be accepted and assumed by the proposed operator. The department may deny approval of the request for transfer if the original operator has any existing notice or permit violations at the time of the request until such time as the violations have been remedied. If the department approves the transfer the financial warranty submitted by the original operator shall be released.
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 16, 1989)

49.65.180 Confidentiality.

Upon request of any operator, information in any application or report relating to the location, size, grade, geology or geochemistry of any ore deposit, proprietary process information, or information as to cost of mine construction or operation shall be kept confidential by the department to the extent permitted by AS 09.25.110, AS 09.25.120 or other applicable law. Information to be maintained as confidential must be separately presented to the department and must be marked "Confidential."
(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 17, 1989)

49.65.185 Suspension or revocation of notices and permits.

(a) Subject to the procedures of this section, the commission may suspend or revoke a permit issued under this article, or the authority to operate under an exploration notice pursuant to section 49.65.120, upon a determination by the commission that:

(1) The exploration of mining operations are not in material and substantial compliance with the requirements of the exploration notice or permit and such material and substantial noncompliance remains unremedied after issuance of a compliance order issued pursuant to

section 49.10.620; or

(2) The exploration of mining operations under the notice or permit have a history or pattern of intentional or grossly negligent noncompliance and compliance orders have previously been issued for such past events of noncompliance. Good faith efforts to remedy events of noncompliance shall create an inference that such noncompliance is not a cause for suspension or revocation.

(b) The department shall provide the operator with written notification that it is recommending that the commission consider the entry of a suspension or revocation order under subsection (a) of this section. The written notification shall set forth the reasons for the department's recommendation and the operator's right to a hearing before the commission. The commission shall schedule a hearing within 30 days after the operator has received the written notification. At the hearing, the department shall have the burden of establishing that the operator is not in material and substantial compliance with the permit or authority to operate under an exploration notice, or that there is a past history or pattern on noncompliance sufficient to justify suspension or revocation.

(c) Upon written notification of the entry of a suspension or revocation order to the operator or to any person operating under the authority of the permit or exploration notice, all exploration or mining operations shall cease except those specifically authorized by the commission in the order or except if the assembly stays the order pending appeal.

(d) A suspended notice or permit may be reinstated by the commission upon a determination that the exploration or mining operations have been brought into compliance with the conditions of the notice or permit. A notice or permit which has been revoked may not be reissued by the commission until the commission determines that the exploration or mining operation has been brought into compliance with the terms and conditions of the notice or permit, and the operator has clearly and convincingly demonstrated that preventative measures have been taken to ensure that those conditions which gave rise to the revocation will not reoccur.

(e) A suspension or revocation order may be appealed to the assembly in accordance with chapter 49.20, article I. Pending appeal, the assembly may in its discretion stay an order of suspension or revocation.

(f) The rights of suspension or revocation provided for in this section are in addition to any rights or powers vested in the City and Borough in section 49.65.160 or chapter 49.10, article VI.
(Serial No. 89-47am, § 18, 1989)

49.65.190 Effect of article on operations in annexed territory.

Large mine, small mine and exploration operations occurring in territory annexed by the City and Borough which have been issued the federal and state permits or approvals necessary for the operation, including, if applicable, permits or approvals necessary to operate in accordance with the National Environmental Policy Act (NEPA) process, shall be deemed to have been issued a large mine permit, a small mine permit, or an exploration notice, as applicable, under this article and to otherwise be eligible to operate pursuant to this article upon the effective date of annexation; provided, that all such federal and state permits or approvals are currently valid. With the exception of the initial permit application and exploration notice filing requirements, the operator shall be subject to all of the requirements, of this article in effect upon the effective

date of annexation, including the technical revisions and permit amendment requirements, and the monitoring fee enforcement and revocation or suspension provisions, in the same manner as any other operator. The terms of the City and Borough permit or notice shall be deemed to be the terms of the state and federal permits or approvals, unless and until a permit amendment is required. The operator shall be required to execute documentation acknowledging that the permit or notice deemed to be issued under this article shall have the same terms as the federal and state permits or approvals unless and until a permit amendment is required, and that the operator, and the permit or notice deemed issued, shall be subject to all of the requirements of this article in effect upon the effective date of annexation with the exception of the initial permit application and exploration notice filing requirements.
(Serial No. 89-47am, § 19, 1989)

49.65.195 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this article is for any reason held unlawful or otherwise invalid, such holding shall not affect the remaining portions of the article. The City and Borough declares that it would have enacted this article and each and every part thereof, irrespective of the fact that any one or more parts might be held unlawful or otherwise invalid.
(Serial No. 89-47am, § 20, 1989)

ARTICLE II.

SAND AND GRAVEL

49.65.200 Extraction permit required.

(a) The use of property for the excavation, removal or other extraction of stone, sand, gravel, clay or other natural deposits and formations, including the processing of the materials, may be authorized in any district only under a conditional use permit issued by the commission under the procedures set forth in chapter 49.15, article III, as modified by this article. For the purpose of this article, processing does not include the use of the material for the manufacturing of asphalt, concrete or similar processes requiring the incorporation of significant substances from off the site. No use which may be authorized under this article, regardless of the date of commencement, may be continued or conducted except in accordance with a permit issued under the authority of this article.

(b) Site grading and preparation required for a proposed permitted use is exempt from the requirement of this article if:

(1) Such extraction is a necessary incident to work authorized under a valid building permit, or for improvements which are part of an approved subdivision plat if the material is used within the original tract or parcel subdivided, if all necessary building, grading, and other applicable permits have been issued;

(2) Such extraction is a necessary incident to the location or placement of work located primarily in the public way which is exempt from the building code; provided this exemption does not include excavation, the primary purpose of which is to produce materials for use on the same or a different site;

(3) Such extraction is for cemetery graves, excavations for wells or tunnels, or utilities, or is an exploratory excavation totaling less than 200 cubic yards and is under the direction of a mining or soils engineer or an engineering geologist; or

(4) Such extraction is less than two feet in depth and will not create a cut slope greater than five feet in height or steeper than 1 1/2 horizontal to one vertical and does not involve the removal of more than 200 cubic yards from the lot.

(Serial No. 87-49, § 2, 1987)

49.65.210 Contents of application.

Each person who requires a permit under this article shall file an application with the department. The application shall contain a plan for the excavation operation, storage, on-site processing if permitted in the district, and site restoration. The plan shall include:

(1) A graphic and legal description of the property;

(2) A topographic map showing the existing topography, vegetation, drainage features, ground water level, structures, significant natural and artificial conditions of the land, on-site and off- site geophysical hazards which may affect or be affected by the proposed operation, proposed structures, roads, stockpiling and operation;

(3) A topographic map and a typical cross section showing the proposed finished contour on the land, vegetation, drainage features, limits of overburden clearing, structures, and significant natural and artificial conditions of the property which will exist upon completion of the site restoration plan;

(4) Topographic mapping required in subsections (2) and (3) of this section for areas having a slope of less than five percent shall show spot elevations at all breaks in grade, drainage channels or swales and at selected points not more than 100 feet apart in all directions. For areas having a slope of greater than five percent, contours shall be shown at an interval of not more than five feet where the ground slope is regular: however, contour intervals of not more than two feet may be required where necessary to adequately show irregular land features or drainage details;

(5) The plan shall include a map showing ingress and egress points for trucks and other equipment;

(6) The plan shall include a map showing all buildings and structures to be located on the site; and

(7) A narrative statement describing the operation, on-site processing, stockpiling, and site restoration shall be included showing:

(A) A site drainage plan;

(B) A method of securing the area, including installation of gates at access points, posting, and fencing;

(C) Methods to be used to minimize noise pollution and visual blight;

(D) The proposed hours and days of operation during the year;

(E) The estimated amount and general type of material present and to be removed from the site;

(F) The results of test holes which show the water table level, if any, and the general type and location of materials to be removed;

(G) The date by which it is anticipated the extraction and processing operation will be completed;

(H) A schedule for completion of necessary site restoration work;

(I) Operating procedures for control of airborne particulates and other pollutant emissions from the site and equipment used at the site that may affect areas beyond the site boundaries;

(J) The identification of any geophysical hazards which may affect or be affected by the proposed operation. A statement of the possible impact of the hazard on the operation and of the operation on the hazard including methods of reducing the impact shall be included;

(K) The date of establishment of the operation and history of adjacent land development; and

(L) Such additional relevant information as the commission or department may request.
(Serial No. 87-49, § 2, 1987)

49.65.215 Staff action on application.

(a) Upon receipt of an application and the required filing fee, the department shall review the submission for completeness. If it determines that the submission is incomplete, it shall so notify the applicant in writing within ten days of submission. Unless the director grants an extension, applications which have not been corrected within 60 days of the notice of incompleteness shall be considered withdrawn and the applicant shall be entitled to a refund of one-half the application fee paid. Upon a determination that the application is complete, the department shall schedule a public hearing to be held within 45 days of the receipt of the complete application. Upon receipt of a complete application and the required fee, the department shall submit a copy of the application to the engineering department for a report containing an evaluation of the information in the application and shall include recommendations relating to the effect the proposed extraction and expected traffic will have upon the streets and other improvements of the City and Borough, whether such streets and improvements are existing or projected; the water table, water quality, and drainage; and all properties within the area of influence of the proposed operation.

(b) The department shall review the application and the engineering department report and shall

transmit the report along with its own report and recommendations to the commission and the applicant. The report of the department shall include an evaluation of the plans, data and other submissions of the applicant and shall include its estimate of the community's need for the type and grade of materials which the applicant proposes to remove from the site. The department shall comment on the compatibility of the proposed operation with present and future development of the neighborhood, roads, utilities and public services in the surrounding area, and on provisions for dealing with traffic congestion, noise, dust, aesthetic deterioration, drainage, geophysical hazards, water pollution and other adverse environmental effects.
(Serial No. 87-49, § 2, 1987)

49.65.220 Hearing procedures.

Before any permit, permit modifications, permit transfer, permit extension, or the waiver or modification of the requirements of section 49.65.240 on existing conditional use permits is granted, it shall be considered by the commission at a public hearing. Such hearing shall be held within 45 days after the filing of the complete application.
(Serial No. 87-49, § 2, 1987)

49.65.225 Hearing notice.

Notice of the hearing on the application shall be published in a newspaper of general circulation in the City and Borough not less than ten days nor more than 20 days prior to the date of the hearing. Not less than ten days prior to the date of the hearing, a notice of the hearing shall be mailed to owners of property within 300 feet of the boundaries of the property which is the subject of the application, exclusive of adjoining property held under the same ownership as the property involved, using for this purpose the names and address of the owners as shown in the records of the City and Borough assessor. Failure to send notice by mail to a property owner shall not invalidate any proceedings in connection with an application.
(Serial No. 87-49, § 2, 1987)

49.65.230 Commission action on application.

Within 30 days of the hearing, the commission shall take action on the application. After the public hearing on the application, the commission may grant the permit but shall first consider each of the following areas and may impose such restrictions as may be necessary to protect the public health, safety and welfare:

(1) The hours, days, and times of year of operation;

(2) Screening, whether natural or artificial, to reduce or eliminate adverse visual, audible or other impacts of the operation;

(3) Measures to protect the public from the dangers of the operation or site, to prevent casual or easy access to the area, or to prevent the operation or area from being an unprotected attractive nuisance;

(4) Final and working slope ratios of the face of any extraction area to the extent necessary to protect abutting public and private property, and to protect the future beneficial uses of the property as described in the applicant's plan for development and restoration;

(5) Measures to protect private and public property adjoining the operation and to guarantee orderly and safe traffic circulation both on the public streets and within the permit application area;

(6) Measures which will ensure adequate drainage or collection and storage of surface waters to protect surrounding property, eliminate dangers to the public, or to protect the future beneficial use of the property as described in the applicant's plan for development and restoration;

(7) Measures to protect the water level and water quality;

(8) Measures to minimize or eliminate airborne particulates, visual blight, noise and other adverse environmental effects;

(9) Restoration measures and schedule;

(10) Other measures designed to protect the public health, safety and welfare, including preservation of neighboring property; and

(11) Present development and past history of the neighboring property.

(Serial No. 87-49, § 2, 1987)

49.65.235 Mandatory conditions of permit.

Unless specifically waived by the commission, the requirements of this article shall be a condition of all permits issued. The commission may not waive or modify any of the following requirements except upon a finding that the requirement would serve no useful purpose. Such finding must be supported by substantial evidence in the record of the hearing before the commission:

(1) A strip of land at the existing topographic level, and not less than 15 feet in width, shall be retained at the periphery of the site wherever the site abuts a public way. This periphery strip shall not be altered except as authorized for access points. This section does not alter the applicant's duty to maintain subjacent support.

(2) If the bank of any extraction area within the permit area is above the high water line or water table, it shall be left upon termination of associated extraction operations with a slope no greater than the angle of repose for unconsolidated material of the kind composing it, or such other angle as the commission may prescribe. If extraction operations cause ponding or retained water in the excavated area, the slope of the submerged working face shall not exceed a slope of 3:1 from the edge of the usual water line to a water depth of seven feet. This slope ratio may not be exceeded during extraction operations unless casual or easy access to the site is prevented by a fence, natural barriers, or both.

(Serial No. 87-49, § 2, 1987)

49.65.240 Guarantee.

No permit granted under this article shall become effective until there has been filed with the City and

Borough a performance bond or other guarantee such as a cash deposit, royalty deposit, a primary security interest in real property or transfer of real property to the City and Borough, or other instrument approved as to form and type by the city attorney in an amount determined by the engineering department to be adequate to cover the cost of site restoration, completion of the project, and the performance of other required work. The amount of the guarantee shall be increased from time to time as determined by the engineering department to take into account inflation. A permit shall terminate if the permittee fails, within 90 days of permit issuance, to provide the guarantee required by this section or fails, within 30 days of notice thereof, to provide the increased coverage required by the engineering department. For good cause shown, the manager or the manager's designee may extend the 90-day period. The amount of a guarantee may be reduced to the extent the engineering department determines permit conditions have been performed.
(Serial No. 87-49, § 2, 1987)

49.65.245 Permit termination.

Each permit shall expire upon a date determined by the commission. The termination date shall be based on the lesser of the time requested by the applicant, the time reasonably required to extract the material available from the site, or the time material from the site will be needed by the community. The applicant may obtain reconsideration of the termination date decision upon a request filed within seven days of the decision. The applicant shall be given an opportunity to be heard at the reconsideration. The burden shall be on the applicant to prove that a longer period is justified in order to amortize improvements required by the commission or that the period established by the commission is otherwise unreasonable.
(Serial No. 87-49, § 2, 1987)

49.65.250 Transfer of permit.

Permits granted under this article and former section 49.25.603 are transferable to any other person, partnership, corporation, joint venture or other association upon approval by the department. A transfer shall not be approved unless the department finds that there has been compliance with all conditions applicable during the period preceding the transfer. No transfer shall be effective until a satisfactory performance guarantee has been filed with the City and Borough.
(Serial No. 87-49, § 2, 1987)

49.65.255 Modification of permit.

A permittee may apply for a modification of a permit. If the department determines that the requested modification is a minor modification which will not have a significant impact on public or other private property and is within the spirit and intent of the conditions of the original permit, the department may tentatively approve the modification. The department shall notify the commission of the tentative approval. At the meeting at which the commission receives notification of the tentative approval, the commission may reject the modifications tentatively approved by the department. If the commission takes no action on the tentative approval or approves or changes it, it shall be final and effective on the day following the commission meeting or such date as the commission may determine. If the commission rejects the tentative modification or determines that the modification requested is not a minor modification, the tentative approval is void. If the commission rejects a tentative approval or the department or the commission determines that the requested modification is not a minor modification, the applicant may pay the required fee and submit information required under section 49.65.215 which is necessary for evaluation of the requested modification. The

commission may grant, in whole or in part, the requested modification and may establish such conditions as may be necessary. A modification may not be approved unless the commission finds that there has been compliance with all conditions applicable during the period preceding the request for modification. If the commission finds after the public hearing on the application that conditions have changed since the original permit was issued or that an unanticipated condition exists, it may further modify the conditions of the permit and impose such additional conditions as it deems necessary to accomplish the purpose of this article. The permit as modified shall become effective upon the filing of a satisfactory performance guarantee covering the new or changed permit conditions.
(Serial No. 87-49, § 2, 1987)

49.65.260 Appeal.

The applicant, a municipal officer or any person who submitted written or oral testimony at the hearing may appeal the decision of the commission to the assembly in accordance with chapter 01.50.
(Serial No. 87-49, § 2, 1987; Serial No. 97-30, § 2, 1997)

49.65.265 Suspension or revocation of permit.

(a) The manager may suspend a permit issued under this article upon a determination that the site or operation is not in compliance with the conditions of the permit. Upon the oral or written notification of the suspension to the permit holder or to any person operating under the authority of the permit, all operations under the permit shall cease except those specifically authorized by the manager in the suspension notice. An oral notice shall be followed as soon as practical by a written notice. A suspended permit may be reinstated by the manager upon a determination the site or operation has been brought into compliance with the conditions of the permit.

(b) The manager may revoke a permit if there is substantial noncompliance with the terms of the permit or the site or operation under the permit has a history of noncompliance. Upon oral or written notification of the revocation to the permit holder or to any person operating under the authority of the permit, all operations under the permit shall cease except those specifically authorized by the manager in the revocation notice. An oral notice shall be followed as soon as practical by a written notice. A permit which has been revoked may not be reissued; however, an application for a new permit at the site may be filed. If a new permit is filed, the commission may consider the history of noncompliance with the prior permit conditions in determining whether a new permit should be issued.

(c) A suspension or revocation order may be appealed to the board of adjustment.
(Serial No. 87-49, § 2, 1987)

ARTICLE III.

MOBILE HOMES

49.65.300 Mobile homes on individual lots.

Mobile homes may be located on individual lots outside of mobile home parks or mobile home subdivisions only under the following conditions and after issuance of a building permit:

(1) A mobile home may be used as a temporary structure during construction of a dwelling on a lot. Occupancy of the mobile home is permitted only after issuance of a building permit for the dwelling under construction and only if construction commences within 120 days of issuance of the permit.

(2) Mobile homes which meet the building code and zoning requirements applicable to permanent construction may be located on any lot in the same manner.

(3) The commission may issue a conditional use permit for a single mobile home used as an ordinary residence on an individual lot in the RR, rural reserve district, and the D1 and D3, residential districts, or used as a caretaker residence in any district.

(Serial No. 87-49, § 2, 1987)

49.65.310 Mobile home parks.

(a) *Park permit required exemptions.*

(1) No person shall establish, maintain, expand, alter, modify, reconstruct or operate a mobile home park, or expand a mobile home park existing at the time the ordinance codified in this article becomes effective except pursuant to a valid conditional use permit issued pursuant to chapter 49.15, article III, as modified by this article.

(2) Mobile home parks existing on September 5, 1981, are exempt from the provisions of subsections (b)(2)--(5) of this section, except that if such an exempted park is expanded, the entire park shall be made to substantially conform with the requirements for new parks except those establishing street widths and mobile home space layout. The remaining sections of this chapter are applicable to such existing parks.

(b) *Park design requirements.*

(1) *Dimensional site standards.* Dimensional site standards are as follows:

(A) Minimum mobile home park area, two acres;

(B) Minimum setback from public streets, 25 feet;

(C) Minimum side and rear yard setback from the exterior lot line, 15 feet;

(D) Standards for mobile home lots within mobile home parks are as follows:

(i) *Lot occupancy.* No more than one mobile home shall occupy a mobile home lot. No other dwelling unit shall occupy a mobile home lot.

(ii) *Minimum lot size.* All single mobile home lots shall be at least of 3,000 square feet in area, except that a doublewide mobile home lot shall be at least 4,500

square feet in area.

(iii) *Separation of mobile homes.* No wall, post, or column supporting a roof of any mobile home, accessory building, or addition to any mobile home shall be placed less than 15 feet away from any other mobile home, accessory buildings or addition. A mobile home, or its addition or accessory building having an interior finish of gypsum board or equivalent fire resistive materials, may be placed no less than ten feet from one likewise finished, and no less than 12 1/2 feet from one not so finished. An accessory building to a mobile home may be placed less than ten feet away from that mobile home or its addition. Eaves and other projections may extend no more than 12 inches into the separation distance. Uncovered ramps and associated landings needed for access by people with disabilities may project five feet into the separation distance.

(iv) *Maximum lot coverage.* Coverage of a mobile home lot shall not exceed 50 percent of the total land area.

(2) *Road and parking standards.*

(A) Two driveway entrances may be permitted to serve a mobile home park when spaced not less than 200 feet apart. Additional driveway entrances may be allowed upon approval by the commission if such entrance or entrances are spaced not less than 200 feet from any other entrance. The driveway entrances shall be at right angles to the public road from which they are served. This angle shall be maintained for a distance of at least 100 feet.

(B) Access roads within the mobile home park shall have a minimum width of 30 feet. Every mobile home lot shall abut an access road. Direct access to any public right-of-way from individual mobile home lots shall not be permitted. Streets shall be surfaced with all-weather material such as gravel, cinders, asphalt or concrete to a minimum surface width of 22 feet.

(C) Minimum off-street parking spaces on each mobile home lot shall be as provided in section 49.40.210 of this title for single-family residences.

(3) *Recreation; playgrounds.* A minimum of 200 square feet of playground in the mobile home park shall be provided for each mobile home lot. No playground area shall contain less than 2,500 square feet.

(4) *Transient camper spaces.* Transient camper spaces are permitted in any mobile home park as an accessory use subject to conditional use approval. Such spaces shall be provided with toilet and shower facilities meeting applicable state requirements, segregated according to sex, and adjacent to the transient unit area. Transient campers shall have separate lots and shall meet the same setback requirements as permanent units. Transient units shall not be allowed to exist as permanent units.

(5) *Sales lots.* Sales lots upon which unoccupied trailers are displayed for sale shall not be located

within a mobile home park, provided that mobile home units for sale or rent in place may be located within the park providing they meet all the criteria set forth in this chapter.

(c) *Park establishment.*

(1) Mobile home parks may be established as a conditional use only in the following zoning districts: D10, D15, D18, multifamily residential districts, LC, light, and GC, general commercial districts.

(2) A preliminary plan shall be submitted for concept review by the commission. The preliminary plan need not include complete engineering drawings but should be sufficiently complete to allow for review of all design standards.

(3) After concept approval by the commission, the developer shall submit a final plan. The final plan shall contain the following information:

(A) The name, address and interest in the property of the applicant;

(B) The location and legal description of the mobile home park; and

(C) Complete engineering plans and specifications for the proposed mobile home park. The plans and specifications shall include:

(i) The area and dimensions of tract of land;

(ii) The number, location, and size of all lots with the required yard setback designated on each lot;

(iii) The location, width and surface of access streets and walkways;

(iv) The location of water and sewer lines;

(v) The location, type, and size of sewage disposal facilities;

(vi) The location of water source;

(vii) The location and size of any buildings existing or proposed for construction within the mobile home park;

(viii) A plan for refuse disposal;

(ix) The location and distribution of electrical systems;

(x) The location and storage of heating fuel; and

(xi) The location and size of playground areas.

(4) Building permit required. It is unlawful for any person to construct, alter or extend any mobile home park except pursuant to a valid building permit. The permit shall not be issued until the plans and specifications have been approved by the commission, state department of environmental conservation or other review agencies.

(d) *Expiration of permits.* Any final approval of a development permit issued under this article shall expire according to the expiration schedule for development permits in chapter 49.15, article II.

(e) *Submission of park drawing.* Each mobile home park in existence on the effective date of the ordinance codified in this article shall submit a complete and accurate park drawing. The drawing shall show above ground improvements and setback measurements. An engineer's or surveyor's certification is not required. All new mobile home parks shall have the four corners of each lot staked with a permanent surveyor's monument.

(f) *Annual inspection.* An annual inspection by the City and Borough building department shall be required for operation of any mobile home park within the City and Borough. A certificate of inspection of mobile home parks will be issued annually after the park has satisfactorily passed an inspection by the building official. The inspection will be made for the purpose of examining the park for compliance with this Code, the building codes, and other applicable codes. If deficiencies are found to exist in any portion of the mobile home park a provisional certificate of inspection may be issued. The provisional certificate of inspection shall define the deficiencies together with an established time to correct the same. Unless such deficiencies are corrected within the established time the provisional certificate of inspection shall be revoked and the City and Borough may proceed with legal action against the park owner. The park owner shall be responsible for correction of any deficiencies within the time limit specified.

(g) *Responsibilities of management.*

(1) The person to whom a conditional use permit for a mobile home park is issued shall operate the park in compliance with this chapter and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

(2) The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter.

(3) The park management shall supervise the placement of each mobile home on its mobile home stand.

(4) The park management shall provide and maintain the proper size electrical receptacle, breaker and grounding at the electrical service for each mobile home lot.

(5) The park management shall maintain a current register containing the names of all park occupants identified by lot number or street address. Such register shall be available to any authorized person inspecting the park.

(6) The park management shall maintain roads within the mobile home park in a condition which

will permit the park occupants safe access to and from each mobile home. The roads shall meet maintenance standards acceptable to the City and Borough.

(h) *Responsibilities of occupants.*

(1) Each park occupant shall comply with all applicable requirements of this chapter and shall maintain his or her mobile home lot, facilities, and equipment in good repair and in a clean and sanitary condition.

(2) Each park occupant shall be responsible for proper placement of the mobile home on the mobile home stand and proper installation of utility connections in accordance with City and Borough standards.

(3) Porches, awnings, and other additions shall be installed only if permitted and approved by the park management. When installed they shall be maintained in good repair.

(4) Each park occupant shall store and dispose of all rubbish and garbage in a sanitary and safe manner. The garbage container shall be rodentproof, insectproof and watertight.

(5) Smoke alarms and fire extinguishers for Class B and Class C fires shall be kept at each park occupant's premises and maintained in working condition.

(6) The area beneath the mobile home shall be enclosed by skirting.
(Serial No. 87-49, § 2, 1987; Serial No. 2000-39, § 2, 10-16-2000)

49.65.315 Pre-1987 mobile home subdivisions.

(a) *Purpose.* To address the requirements for mobile home subdivisions approved under a previous version of the CBJ Municipal Code.

(b) *Pre-1987 mobile home subdivision map.* There is adopted the mobile home subdivision map dated June 5, 2006, as the same may be amended from time to time by the assembly by ordinance.

(c) *Requirements.* One mobile home may occupy a separate lot in the mobile home subdivisions designated on the Pre-1987 mobile home subdivision map. If a mobile home is removed from a lot, it may be replaced with one mobile home. A mobile home or a mobile home must comply with all other standards of the underlying zoning district. Section 49.65.320 of the Land Use Code does not apply to this code section (49.65.315).
(Serial No. 2006-15, § 17, 6-5-2006)

49.65.320 Mobile home subdivision.

(a) *Purpose.* Mobile home subdivisions meeting the requirements of this article and the zoning code may be approved. It is the intent of the City and Borough to provide for subdivisions in which lots may be created which are more in scale with the requirements for mobile homes.

(b) *Applicability and scope.* The following section applies to the development of a mobile home subdivision which is a use allowed in the D5, residential district, D10, D15 and D18, multifamily residential districts.

(c) *Density.* A mobile home subdivision must comply with the density requirement of the district in which it is located, irrespective of the minimum lot size.

(d) *Permit procedure.* A mobile home subdivision shall be approved under the conditional use permit procedure if it meets all requirements applicable to a major subdivision, as modified by this section.

(e) *Special standards.*

(1) *Tract size.* The minimum tract size which may be submitted for subdivision under this section shall be five acres.

(2) *Dimensional standards.* Dimensional standards are:

(A) Minimum lot size, 4,700 square feet;

(B) Minimum width of lot at front building line, 47 feet;

(C) Minimum lot depth, 100 feet;

(D) Maximum lot coverage, 50 percent;

(E) Maximum building height, 35 feet;

(F) Minimum front yard setback, 15 feet;

(G) Minimum rear yard setback, 15 feet;

(H) Minimum side yard setback, 7 1/2 feet.

(3) *Buffer.* A buffer not less than 15 feet in depth shall be maintained around the perimeter of the subdivision except at authorized access points. The buffer is a required subdivision improvement and shall be installed or constructed to the standards promulgated by the director prior to final approval of the final plat or shall be guaranteed as is provided for other required subdivision improvements. All or a part of the buffer may fall within one or more of the lots in the subdivision. There shall be, by virtue of the designation of any part of a lot as required perimeter buffer space, easements in favor of both the homeowners' association required by subsection (e)(6) of this section and the City and Borough across such lots for the purpose of access to and maintenance of the buffer.

The required buffer around the subdivision shall be maintained so as to remain attractive and functional. The buffer shall be maintained to such reasonable standards as may be prescribed by the director. If it is determined that the buffer is not being maintained to such standards, the

association shall be ordered to do such work as is necessary to bring the buffer up to standards. If the homeowners' association fails or refuses to accomplish the required work within such reasonable time as may be allowed, the City and Borough may accomplish the work or may contract with another for the work. All costs to the municipality of the work shall be paid by the association immediately upon demand by the City and Borough. If the association fails to promptly pay the amount due, that amount shall be prorated among all lots within the subdivision and the prorated amount shall be a lien upon such lots. Upon the order of the manager, the amount charged against each lot and remaining unpaid shall be billed to each lot on the real property tax bill of each lot subject to the lien and shall be collected at the same time and in the same manner as are the real property taxes on the lot. The association may recover the cost of buffer restoration, replacement or repair from the person or persons who caused the damage necessitating the restoration, replacement or repair.

No person may move, cut, destroy, damage or injure any tree, shrub or improvement within the required buffer surrounding the subdivision except for the purpose of maintenance or improvement of the buffer when such work has been authorized by the City and Borough manager or by the written authorization from the officer or officers of the association to whom such power has been delegated by the association. In the event of a conflict between an authorization or order by the manager and an authorization by the association, the authorization or order by the manager shall control.

Setbacks shall be measured from the property line without regard to the existence of any part of the lot being designated as a buffer strip.

(4) *Common space.* One or more developable lots shall be set aside and deeded to the homeowners' association for community open or recreational use or other uses designated by the homeowners' association. The total area of such lot or lots shall not be less than 100 square feet times the number of all other lots in the subdivision. The manager may require the deed to the homeowners' association to contain provisions for the conveyance or transfer of such property to the municipality for public use if the homeowners' association ever ceases to exist.

(5) *Other requirements.* The commission may require traffic control devices, turnaround space and other requirements of an appropriate nature where such additional requirements appear to be reasonably required to minimize the adverse internal or external impact of the subdivision development.

(6) *Homeowners' association.* No plat under this section may be given final approval until there is on file with the department a homeowners' association agreement or other instrument approved as to form and content by the director and the attorney. Until over 50 percent of the lots are sold to others, no changes may be made to the agreement without the approval of the director. The director may require the initial use of an agreement provided by the City and Borough. Unless provided otherwise in the initial agreement approved by the City and Borough, after over 50 percent of the lots are sold, changes to the agreement may be made without approval or further involvement of the City and Borough; provided, such agreements do not supersede any ordinance or regulation of the City and Borough. All persons who are owners of property within a mobile home subdivision shall be members of a homeowners' association for the subdivision.

The association shall maintain the required buffer surrounding the subdivision and the required common open or recreation space as well as any other green strips, buffers, open or recreation areas or improvements reserved for the use of the occupants which are required by the commission as a condition of approval of the plat.

(7) *Street width and construction.* The width of dedicated rights-of-way shall be a minimum of 50 feet; each cul-de-sac shall have a minimum radius of 50 feet. No plat under this section may be approved until the streets and culs-de-sac are constructed or their construction has been guaranteed. Streets, culs-de-sac and associated ditches and other improvements shall be constructed to City and Borough standards.

(8) *Restrictions on occupancy of lots.* After the subdivision of one or more parcels into a mobile home subdivision, no lots may be transferred in ownership from the subdivider until one-half or more of the lots are the subject of binding contracts for sale which become effective upon the contracting for sale of one-half of the lots in the subdivision or such greater number as may be specified in the contract documents. No building permits for on-site construction within a mobile home subdivision may be issued until there is on file with the zoning administrator or other person designated by the director a sworn statement by the subdivider that one-half or more of the lots in the subdivision have been sold.

(Serial No. 87-49, § 2, 1987)

ARTICLE IV.

RECREATIONAL VEHICLE PARK

49.65.400 Permits.

(a) No person may operate an existing recreational vehicle park or construct, develop, establish, maintain, expand, alter, modify or reconstruct a recreational vehicle park except pursuant to a conditional use and operations permit issued under this article.

(b) An operations permit issued or renewed under this article expires on December 31 of the year in which it is issued or renewed. The initial operations permit shall be issued with the conditional use permit issued pursuant to section 49.65.410. An application for a renewal shall describe any significant changes in the park since the preceding renewal and shall be submitted to the department between September 1 and November 30 of the year in which the permit is scheduled to expire. The department may issue a renewal upon a determination that:

(1) The park meets all the conditions established by the commission;

(2) The park meets all building, health and other applicable codes; and

(3) The park meets the minimum applicable standards of the Fire Safety Criteria for Recreational Vehicles, National Fire Protection Association Standard 501(c) (1982) and the Standards for Recreational Vehicle Parks and Campgrounds, National Fire Protection Association Standard 501(d) (1982)

(c) If deficiencies not posing a serious or imminent threat to life or property are found to exist in the recreational vehicle park, a provisional operations permit may be issued. A provisional operations permit shall list the deficiencies, the remedies therefor and an established time, not exceeding three months, to correct the deficiencies. If the deficiencies noted in the provisional operations permit are not corrected within the time established, the department shall revoke the permit and provide notice thereof to the commission and the owner or operator of the park.

(d) The commission shall establish a date for a hearing on the revocation. The owner or manager of the park shall be notified of the hearing date and may appear and be heard. After the hearing, the commission shall affirm or reject the revocation.
(Serial No. 87-49, § 2, 1987)

49.65.410 Park establishment.

Recreational vehicle parks may be established as a conditional use but only in the areas designated on the map, entitled "Recreational Vehicle Park Zone" dated June 5, 2006; except, recreational vehicle parks may not be established in the industrial zone.
(Serial No. 87-49, § 2, 1987; Serial No. 2006-15, § 18, 6-5-2006)

49.65.420 Application.

(a) *Form of application.* All applications for a recreational vehicle park conditional use permit shall be made to the department on forms provided by it the department.

(b) *Application contents.* The application shall contain the following information:

(1) The name, address and interest in the property of the applicant;

(2) The location and legal description of the recreational vehicle park; and

(3) Proposed site plans and specifications for the recreational vehicle park. The plans and specifications shall include:

(A) The area and dimensions of tract of land;

(B) The number, location and size of all spaces;

(C) The location, width and surfacing of access streets and walkways;

(D) The location of water and sewer lines;

(E) The location, type, and size of sewage disposal facilities;

(F) The location of water source;

(G) The location and size of any buildings existing or proposed for construction within the recreational vehicle park;

(H) A plan for refuse disposal;

(I) The location and distribution of electrical systems;

(J) The location and size of recreation areas;

(K) A landscaping plan;

(L) A snow removal plan; and

(M) The applicant shall provide such additional information as the department or commission may require.

(c) *Submission of final plans.* After commission approval under the conditional use procedure and standards, as modified by this chapter, the applicant shall submit final site and engineering plans to the department for a determination of compliance with the conditions of the permit and with the requirements of this chapter.
(Serial No. 87-49, § 2, 1987)

49.65.430 Design requirements.

(a) *Dimensional site standards.* Recreational vehicle parks shall meet the following standards:

(1) A park shall be at least two acres in area.

(2) The park shall have a maximum density of 20 recreational vehicle spaces per acre. The commission may reduce the density based on-site and neighborhood characteristics, access, impact on neighboring property, and other relevant factors.

(3) Each recreational vehicle park shall have set aside along the perimeter of the park the following areas which will be landscaped and used for no other purpose:

(A) *Minimum front setback.* Minimum front setback, 25 feet;

(B) *Minimum side and rear setback.* When abutting residential districts, the side and rear setback at the exterior lot line shall be 15 feet;

(C) *Minimum interior separation.* Recreational vehicle units must be separated from each other and from other structures by at least 15 feet.

(b) *Street system.*

(1) Access to recreational vehicle parks shall be designed to minimize congestion and hazards at

entrance and exit and shall be approved by the City and Borough engineer. All traffic into and out of the parks shall be through such entrances and exits. Access to recreational vehicle spaces shall be from internal streets only.

(2) No entrance or exit from a recreational vehicle park may be permitted from a local street or through an established residential neighborhood. The applicant shall construct the necessary access in all cases where there is no existing all-weather surfaced street or road meeting City and Borough standards connecting the recreational vehicle park site with an improved existing public street or road. Any street or road improvement required beyond the boundary of the recreational vehicle park must be approved by the city engineer.

(3) Access roads within the recreational vehicle park shall be surfaced with all-weather material approved by the engineering department and shall have a minimum width of 15 feet for one-way traffic and 25 feet for two-way traffic.

(4) At least one and one-half parking spaces per recreational vehicle space shall be provided in the park. At least one parking space shall be provided at each recreational vehicle space.

(c) *Recreation.* A recreational vehicle park shall include at least one outdoor recreation area which must be easily accessible from all recreational vehicle spaces. The recreation area shall contain not less than five square feet per park acre. Area design and equipment shall be subject to approval by the director.

(d) *Landscaping approval required.* To enhance aesthetics, buffer the surrounding neighborhood from the park, and ensure public safety, the recreational vehicle park must be enclosed by a fence, wall, landscape screening, earth mounds or other features approved by the director.

(e) *Site conditions.* Soil condition, ground water level, drainage, ground cover and topography shall be considered and compensated for in the siting of the park. The park may not be sited so as to create a hazard to the health and safety of its occupants and may not be exposed to objectionable smoke, noise, odor, geophysical hazard or other adverse influence.

(f) *Sewage disposal facilities.* Each recreational vehicle park shall provide a minimum of one sanitary station unless all recreational vehicle spaces are provided with sewage hookups.

(g) *Tenant toilet facilities.* Each recreational vehicle park shall provide a minimum of one tenant toilet facility.
(Serial No. 87-49, § 2, 1987)

49.65.440 Additional restrictions.

(a) Indoor recreational facilities, coin-operated laundry facilities, stores and similar convenience facilities, but not including headquarters, toilets, showers, sanitary stations and similar structures necessary for the operation of a recreational vehicle park, are subject to the following additional standards:

(1) The total area occupied by such structures and the parking areas primarily related to their operations may not exceed five percent of the gross area of the park.

(2) Signs advertising of the commercial character of such structures may not be visible from any street outside the park.

(3) Such structures shall be directly accessible only from a street within the park.

(b) Recreational vehicles shall not be displayed for sale within a recreational vehicle park.
(Serial No. 87-49, § 2, 1987)

49.65.450 Building permit.

A building permit for the construction, alteration or expansion of a recreational vehicle park shall not be issued until the commission has approved the conditional use permit for the park and the department has approved the final site and engineering plans.
(Serial No. 87-49, § 2, 1987)

49.65.460 Park occupancy.

(a) Recreational vehicles shall be licensed to operate on state highways while located within a recreational vehicle park. Except for temporary repairs, the removal of wheels, the installation of skirting, and the installation of appurtenances are prohibited. An unenclosed fuel, oil or propane tank shall be permitted provided it does not violate the required setbacks.

(b) A recreational vehicle park that allows individual recreational vehicles within the park to be occupied for periods in excess of 90 days per year shall:

(1) Provide one code-approved electrical stand for each recreational vehicle space;

(2) Provide ten-pound ABC fire extinguishers available for public use located so that there is at least one such extinguisher within 75 feet of each recreational vehicle space;

(3) Require that each recreational vehicle be able to be moved within ten minutes of notice;

(4) Require that each recreational vehicle contain a smoke alarm and fire extinguisher and implement an inspection program to monitor compliance; and

(5) Require that tanks containing liquefied petroleum gas not exceed a total capacity of 100 gallons for each recreational vehicle space served.
(Serial No. 87-49, § 2, 1987)

49.65.470 Responsibilities of management.

(a) The person to whom a permit for a recreational vehicle park is issued shall operate the park in compliance with this chapter and shall provide adequate supervision to maintain the park, its facilities, and equipment in good repair and in a clean and sanitary condition.

(b) The park management shall notify park occupants of all applicable provisions of this chapter.

(c) The park management shall supervise the placement of each recreational vehicle on its recreational vehicle space. Placement includes securing, stabilizing and installing all utility connections.
(Serial No. 87-49, § 2, 1987)

ARTICLE V.

CONVENIENCE STORES

49.65.500 Purpose.

The purpose of this article is to regulate convenience stores located in the areas designated on the convenience store use area maps A--B dated June 5, 2006.
(Serial No. 87-49, § 2, 1987; Serial No. 2004-09, § 3, 4-12-2004; Serial No. 2006-15, § 19, 6-5-2006)

49.65.510 Applicability.

A convenience store use is allowed in the LC, Light Commercial; GC, General Commercial; MU and MU2, Mixed-use districts; and I, Industrial districts according to the procedures and standards of these districts. This article applies to the approval of a convenience store in those areas of the City and Borough designated for this use on the convenience store use area maps A--B outside these zoning districts.
(Serial No. 87-49, § 2, 1987; Serial No. 2004-09, § 3, 4-12-2004; Serial No. 2006-15, § 20, 6-5-2006)

49.65.520 Review procedure.

An application to locate a convenience store shall be reviewed as a conditional use permit. In addition to the regular submittals, a current traffic analysis shall be required. The project will be reviewed and approved by the commission on the basis of compliance with the standards and bonus awards set out in Sections 49.65.530 and 49.65.540.
(Serial No. 87-49, § 2, 1987; Serial No. 2004-09, § 3, 4-12-2004)

49.65.530 Standards.

(a) Stores may be approved in each of the areas shown on the convenience store use area maps A--B.

(b) Video rentals, a laundromat, and an automatic teller machine may be permitted as accessory uses. Automobile fuel sales may be permitted as an accessory use in locations with adequate space for queuing. The retail area for liquor sales may occupy no more than 50 percent of the gross floor area. Automotive service and exterior merchandising shall not be permitted. Drive-up window service may be permitted only if vehicle queues will not extend into adjacent streets.

(c) Except as authorized by the bonus provisions of this article, gross floor area shall be limited to 3,000 square feet.

(d) Vehicle access must be directly from an arterial or collector, and not from a local street.

(e) Height shall be limited to one story except that a second story may be allowed for residential use and for accessory office and storage uses, provided that any storage use must relate directly to the primary permitted use.

(f) The site perimeter and parking area shall be landscaped and screened with live material installed within ten months of the date of final construction permit approval or issuance of a certificate of occupancy, whichever is the later. The Commission may authorize on any bond or other security or collateral required pursuant to CBJ 49.15.330(g)(5) a provision specifying that the bond shall be forfeit if landscaping is not complete by the time required or if any plants dying within one year of installation are not replaced. Development abutting a lot zoned for residential use shall include landscaped strips or landscape boxes at least five feet wide unless the applicant demonstrates that a narrower landscape strip meets the intent of this section. The strips shall be covered with ground cover and shall be maintained throughout the year such that:

(1) On a property line shared with the residential lot the strip shall include a continuous shrub screen, fence, or both, six feet high and 95% opaque. The screen shall include one tree at least six feet high at installation per 30 lineal feet;

(2) On a property line adjacent to a street the strip shall include a continuous low shrub screen on a berm or other raised facility which is at least five feet wide, landscaped at a slope not greater than the natural angle of repose, and consistent with sight distance requirements for vehicle egress. The strip width may be reduced to not less than 18 inches to accommodate planter boxes and sight obscuring fences. The screen shall include one tree per 30 lineal feet;

(3) On all other property lines except those along driveways the strip shall include a continuous low shrub screen with one tree per 30 lineal feet at least six feet high at installation,

(g) The minimum off-street parking requirement shall be one space per 250 square feet of gross floor area.

(h) Exterior bear-resistant public litter cans shall be provided.

(i) The exterior building appearance, including siding, roof line, windows, paint colors and building massing shall be compatible on all sides with surrounding uses.

(j) Exterior lighting may not shed light or glare above the roofline of the building or beyond the property line of the site.

(k) The building shall be set back from any property line shared with a residentially zoned parcel by a distance of 20 feet or the distance required by the underlying zoning district, whichever is greater.

(l) No more than 80 percent of the lot shall be covered by an impervious surface.

(m) The layout of the store shall provide for views from the cash register of bicycle racks, telephones, seating areas, and other exterior public amenities.

(n) The parking lot shall be paved and striped with spaces and a circulation pattern.

(o) Headlight glare shall not be permitted onto residentially-zoned lots adjacent to the site.

(p) Liquor sales shall not be permitted from drive-in window(s).
(Serial No. 87-49, § 2, 1987; Serial No. 99-22, § 10, 1999; Serial No. 2004-09, § 3, 4-12-2004; Serial No. 2006-15, § 21, 6-5-2006)

49.65.540 Bonus provisions.

(a) The planning commission may allow development in excess of 3,000 square feet but no more than 5,000 square feet of total gross floor area upon written findings awarding a bonus. Except as otherwise provided in this section, the bonus shall be 500 square feet each for compliance with any of the following criteria:

(1) The area proposed for retail alcohol sales is less than 1,500 square feet in net floor area. The bonus shall be 1,000 square feet.

(2) The development includes a lighted pathway on site connecting to bus stops, crossings, walkways or other points of off-site pedestrian activity and indicated by a surface material or color reasonably different from adjacent areas. Lighting shall be shielded from residential uses.

(3) The development includes a covered bicycle rack comprising at least five stalls and not encroaching into a pedestrian walkway or vehicle area.

(4) The loading area, garbage containers, utility meters and mechanical equipment are to a reasonable extent visually and acoustically screened from adjacent residential property.

(5) The development includes a public transit facility approved by the Manager and the Alaska Department of Transportation and Public Facilities. The maximum bonus shall be 1,000 square feet.

(6) The berm required by section 49.65.530(f)(2) is at least ten feet wide.

(7) At least ten percent of the interior parking area is planted with a mixture of trees, shrubs, or planter boxes.

(b) An award of a bonus under subsection (a)(3) or (a)(5) of this section shall reduce the parking otherwise required by CBJ 49.65.530(g) to one space per 350 square feet of gross floor area.
(Serial No. 2004-09, § 3, 4-12-2004)

ARTICLE VI.

RESERVED

49.65.600 Reserved.

ARTICLE VII.

COMMON WALL RESIDENTIAL DEVELOPMENT

49.65.700 Purpose.

The purpose of this article is to allow, in certain residential districts, the development of common wall residential structures that are held under separate ownership.
(Serial No. 87-49, § 2, 1987)

49.65.705 Procedure.

An application shall be made for a development permit to construct a common wall residential structure. An application for four or fewer units shall be considered under the department approval procedure and one for over four dwelling units shall be considered under the allowable use procedure.
(Serial No. 87-49, § 2, 1987)

49.65.710 Four dwellings or less.

The following submittals and procedures are required for approval of a common wall development of four or fewer dwellings:

(1) Building plans that meet the requirements of this chapter and the building code shall be submitted.

(2) The application shall be reviewed by the director and if all requirements of this title are met, given preliminary departmental approval. The applicant, upon securing a building permit, may proceed with construction of the common wall dwellings.

(3) After completion of the project the applicant shall submit an application pursuant to chapter 49.15, article IV, for a minor subdivision to subdivide the property into individual lots. The application shall include the following:

  (A) A set of common wall agreements or covenants which set forth the rights and obligations of the owners for any common elements of the development;

  (B) An as-built survey of the common wall dwelling that includes the location of the common wall in relation to the common property line;

  (C) Occupancy permits which document the substantial completion of all units in accordance with the preliminary approval of the director; and

  (D) After review and approval of all submittals by the director, the plat and the common wall agreement will be recorded by the department at the office of the recorder.

(Serial No. 87-49, § 2, 1987)

49.65.720 Five dwellings or more.

The following submittals and procedures shall be required for common wall development of five or more dwellings in one or more structures:

(1) The applicant shall submit building plans that include a detailed site plan and elevations of the proposed structures. Final plans suitable for a building permit application are not required at this time.

(2) The applicant shall submit a set of common wall agreements, covenants, and homeowner agreements which set forth the rights and obligations of the owners for all common elements of the development.

(3) The applicant shall show evidence of an application pursuant to chapter 49.15, article IV, for a preliminary plat to subdivide the property into separate lots.

(4) The application will be reviewed by the commission, and if it meets all requirements of this title, will be given preliminary approval. The applicant, upon securing a building permit, may then proceed with construction of the common wall dwellings.

(5) After completion of the project, the applicant shall submit pursuant to chapter 49.15, article IV, a final plat to complete the subdivision and recording of the common wall development. In addition to the requirements of chapter 49.15, article IV, the final plat application shall include the following:

(A) An as-built survey which includes all structures and the location of the common walls in relation to the common property lines;

(B) Occupancy permits which document substantial completion of all units in accordance with the preliminary plans approved by the commission; and

(C) Final common wall agreements, covenants or homeowners' agreements suitable for recording.

(6) After review and approval of the final plat by the commission, the plat and common wall agreement documents shall be recorded by the department at the office of the recorder.

(Serial No. 87-49, § 2, 1987)

49.65.725 Uses.

The use of each common wall dwelling shall be limited to a single-family dwelling and accessory uses.
(Serial No. 87-49, § 2, 1987)

49.65.730 Utilities.

All common wall dwellings must be served by individual public water and sewer services unless suitable easements and maintenance agreements are provided.
(Serial No. 87-49, § 2, 1987)

49.65.735 Parking and access.

Parking shall meet all requirements of chapter 49.40 for single-family dwellings. For common wall dwellings of three or more units, access to the public right-of-way is restricted to common driveways for each pair of units or a common parking area for all units. The option chosen shall be reviewed by the commission as part of the application and shall include appropriate easements and homeowners' agreements.
(Serial No. 87-49, § 2, 1987)

49.65.740 Density.

The density allowed for common wall dwellings in any zoning district is the density specified for dwellings other than duplexes in that district.
(Serial No. 87-49, § 2, 1987)

49.65.745 Zoning districts.

Common wall development is allowed in the D-5, D-10, D-15 and D-18, residential districts, and the MU2, mixed use district, except that no common wall development of three or more adjoining units is allowed in the D-5, residential district.
(Serial No. 87-49, § 2, 1987; Serial No. 98-09, § 10, 1998; Serial No. 98-19, § 2, 1998)

49.65.750 Dimensional standards.

Common wall development shall meet the dimensional standards of the zoning district in which it is located except for the following:

(1) *Minimum lot size.* The minimum lot size may be reduced for common wall development of three contiguous units or more according to the following:

(A) D-10, residential district, 5,000 square feet;

(B) D-15, residential district, 3,500 square feet;

(C) D-18, residential district, 2,500 square feet;

(D) MU2, mixed use district, 2,500 square feet.

(2) *Minimum lot width.* Lot width may be measured at either the front building line as defined by the code or at the actual front line of the building, and may be reduced according to the following:

(A) D-5, residential district, 60 feet;

(B) D-10, residential district, 40 feet;

(C) D-15, residential district, 30 feet;

(D) D-18, residential district, 20 feet;

(E) MU2, mixed used district, 20 feet.

(3) *Minimum side yard setback.* The minimum side yard setback from the common property line is reduced to zero feet for the common wall only. The remaining side yard setbacks shall be ten feet in a D-5 zone and five feet in a D-10, D-15, D-18 or MU2 zone. For any significant part of the structure opposite the common property line but not connected to the structure on the other lot, a five-foot minimum setback from the common property line shall be maintained or a minimum five-foot maintenance easement and adequate homeowners agreement provided.

(4) *Common wall length.* The common wall shall extend at least 15 feet along the common property line.

(Serial No. 87-49, § 2, 1987; Serial No. 98-09, § 11, 1998; Serial No. 98-19, § 3, 1998)

49.65.755 Architectural features.

Architectural features other than roof eaves, authorized to project into required yard setbacks under chapter 49.25, article IV, may not project into required side yard setbacks required under this article. No architectural features may project into the neighboring lots.
(Serial No. 87-49, § 2, 1987)

ARTICLE VIII.

COMMERCIAL AND INDUSTRIAL PERFORMANCE STANDARDS*

***Administrative Code of Regulations cross reference--** Performance standards, commercial and industrial standards, Part IV, § 04 CBJAC 050.010 et seq.

49.65.800 Commission to establish.

The commission shall establish commercial and industrial standards by regulation under chapter 01.60.
(Serial No. 87-49, § 2, 1987; Serial No. 96-41, § 17, 1996)